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| APPLICATION NO.     | FILING DATE                    | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------|--------------------------------|----------------------|---------------------|------------------|
| 10/551,228          | 09/28/2005                     | Yves Hatzfeld        | BJS-4982-11         | 3243             |
| 23117<br>NIXON & VA | 7590 05/03/2007<br>NDERHYE, PC | EXAM                 | EXAMINER            |                  |
| 901 NORTH C         | GLEBE ROAD, 11TH FLO           | ZHEN                 | ZHENG, LI           |                  |
| ARLINGTON           | , VA 22203                     |                      | ART UNIT            | PAPER NUMBER     |
|                     |                                |                      | 1638                |                  |
|                     |                                |                      |                     | <del></del>      |
|                     |                                |                      | MAIL DATE           | DELIVERY MODE    |
| •                   |                                |                      | 05/03/2007          | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|   |  | Application No.   | Applicant(s)   |        |  |  |
|---|--|---|--|--------|--|--|
| Office Action Summary                                 |  | 10/551,228  | 1,228 HATZFELD ET AL.  |        |  |  |
|   |  | Examiner  | Art Unit   |        |  |  |
|   |  | Li Zheng  | 1638   |        |  |  |
| Period fo   | The MAILING DATE of this communication a<br>or Reply   | ppears on the cover sheet w   | ith the correspondence ad  | ldress |  |  |
| WHIC<br>- Exter<br>after<br>- If NC<br>- Failu<br>Any | ORTENED STATUTORY PERIOD FOR REF<br>CHEVER IS LONGER, FROM THE MAILING<br>asions of time may be available under the provisions of 37 CFR<br>SIX (6) MONTHS from the mailing date of this communication.<br>It period for reply is specified above, the maximum statutory period<br>re to reply within the set or extended period for reply will, by state<br>reply received by the Office later than three months after the main<br>and patent term adjustment. See 37 CFR 1.704(b). | DATE OF THIS COMMUNI 1.136(a). In no event, however, may a od will apply and will expire SIX (6) MOn tute, cause the application to become Al | CATION. reply be timely filed NTHS from the mailing date of this company to the mailing date of this company to the second secon |        |  |  |
| Status  |  |   |  |        |  |  |
| 1)🖂   | Responsive to communication(s) filed on 08   | November 2006.  |  |        |  |  |
| 2a) <u></u>   | This action is <b>FINAL</b> . 2b)⊠ Th  | nis action is non-final.  |  |        |  |  |
| 3)[   | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is  |   |  |        |  |  |
|   | closed in accordance with the practice unde  | r <i>Ex parte Quayle</i> , 1935 C.[   | ). 11, 453 O.G. 213.   |        |  |  |
| Dispositi   | on of Claims   |   |  |        |  |  |
| 5)<br>6)<br>7)  | Claim(s) <u>1-20</u> is/are pending in the application  4a) Of the above claim(s) is/are withded  Claim(s) is/are allowed.  Claim(s) is/are rejected.  Claim(s) is/are objected to.  Claim(s) <u>1-20</u> are subject to restriction and/or  | rawn from consideration.  | ,  |        |  |  |
| Applicati   | on Papers  |   |  |        |  |  |
| 10)   | The specification is objected to by the Exami The drawing(s) filed on is/are: a) a Applicant may not request that any objection to the Replacement drawing sheet(s) including the corn The oath or declaration is objected to by the   | ccepted or b) objected to ne drawing(s) be held in abeya ection is required if the drawing  | nce. See 37 CFR 1.85(a).<br>g(s) is objected to. See 37 Cl   |        |  |  |
| Priority ι  | ınder 35 U.S.C. § 119  |   |  |        |  |  |
| a)  | Acknowledgment is made of a claim for foreignal All b) Some * c) None of:  1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority docume application from the International Bure See the attached detailed Office action for a life.  | ents have been received.<br>ents have been received in A<br>riority documents have been<br>eau (PCT Rule 17.2(a)).                            | Application No  n received in this National  | Stage  |  |  |
| Attachmen   |  | _   |  |        |  |  |
| 2)  Notic<br>3) Infor                                 | te of References Cited (PTO-892) te of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) or No(s)/Mail Date  | Paper No(   | Summary (PTO-413) (s)/Mail Date Informal Patent Application  |        |  |  |

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## **DETAILED ACTION**

## Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

**Group I**, claim(s) 1-9, drawn to a method for increasing yield of a plant compared to corresponding wild type plants.

**Group II**, claim(s) 10-11, drawn to a construct comprising a nucleotide sequence capable of modulating a TAD protein.

**Group III**, claim(s) 12, drawn to a method for increasing yield of a plant compared to corresponding wild type plants by introducing TAD gene or gene fragment.

**Group IV**, claim(s) 13-16, 20 drawn to transgenic plant having increased yield and use thereof for processing.

**Group V**, claim(s) 17-19, drawn to use of TAD gene or protein.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

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The technical feature linking the inventions of Groups I-V is a TAD protein.

However, this protein is anticipated by a TAD protein from Arabidopsis (page 3, 4<sup>th</sup> paragraph and GenBank Accession No. NP\_565435, first deposited in Jan. 2002).

Therefore this technical feature does not constitute a special technical feature as defined by PCT Rule 13.2, because it does not define a contribution over the prior art.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li Zheng whose telephone number is 571-272-8031.

The examiner can normally be reached on Monday through Friday 9:00 AM - 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on 571-272-0975. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ELIZABETH MCELMANISTO
PRIMARY EXAMINED